



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2867



Floyd J. Carson  
146 Barnstead Road  
Pittsfield, NH 03263

RE: 337 Parade Road, Barnstead

NOTICE OF PROPOSED  
LICENSE ACTION  
No. 01-08

October 4, 2001

**ADMINISTRATIVELY CLOSED**

**I. Introduction**

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division ("Division") to Floyd J. Carson, pursuant to RSA 541-A:30 and RSA 485-A:29 and Env-Ws 1005.12. The Division is proposing to revoke the septic designer and installer licenses held by Floyd J. Carson, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

**II. Parties**

1. The Department of Environmental Services, Water Division is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Floyd J. Carson is an individual having a mailing address of 146 Barnstead Road, Pittsfield, NH 03263.

**III. Summary of Facts and Law Supporting Proposed Action**

1. RSA 485-A:29-44 authorizes the Department of Environmental Services ("DES") to review and approve the subdivision of land for the purpose of subsurface sewage disposal and the design and installation of subsurface sewage disposal systems. Pursuant to RSA 485-A:41, the Commissioner of DES has adopted NH Admin. Rules Env-Ws 1000 to implement this program.
2. RSA 485-A:35, I requires a person who submits plans for septic systems for other than the person's own domicile to first obtain a permit from DES. The same section also authorizes DES to revoke a designer's permit following an administrative hearing for just cause.
3. RSA 485-A:36, I requires a person who engages in the business of installing septic systems to first obtain a permit from DES. The same section also authorizes DES to suspend, revoke or not renew an installer's permit for just cause following an administrative hearing.
4. Floyd J. Carson is the owner of certain property located at 337 Parade Road in Barnstead, NH and more particularly described in Town of Barnstead tax maps as Map 21, Lot 17 ("the Property").
5. Mr. Carson is a licensed septic system designer (#244) and a licensed septic system installer (#448).

6. On June 29, 2001, the Division received a written complaint concerning a septic system being repaired on the Property by Mr. Carson. The Property is used for commercial purposes.
7. On July 2, 2001, Division personnel inspected the Property. The purpose of the inspection was to determine compliance with RSA 485-A:29-44 and Env-Ws 1000.
8. During the site inspection, Division personnel observed Mr. Carson replacing a failed septic system with a new system, and covering the system. The leachbed was located within approximately 25 feet of surface water. No permit had been applied for nor issued for replacement of this system.
9. Mr. Carson stated that the Property was for sale, but was presently being rented as a commercial property.
10. During the inspection, Mr. Carson verbally threatened Division personnel. He also stated that not a day went by that he didn't violate state law, and that he (Mr. Carson) was proud of that fact.
11. RSA 485-A:29, I prohibits an installed system from being covered prior to final inspection and approval by DES.
12. Env-Ws 1003.10(e) prohibits repair or replacement "in-kind" of a septic system serving a commercial property.
13. Env-Ws 1008.04 establishes minimum distances between septic systems and surface waters. Table 1008-2 establishes the minimum distance between surface waters and leachbed trenches as 75 feet.

#### **IV. Violations Alleged**

1. Mr. Carson has violated Env-Ws 1003.10(e) by replacing a failed septic system serving a commercial property without submitting new design plans and obtaining approval of those plans from DES.
2. Mr. Carson has violated RSA 485-A:29, I by covering a septic system prior to inspection by DES personnel.
3. Mr. Carson has violated Env-Ws 1008.04(a) by installing a septic leachfield within 75 feet of surface waters.

## V. Proposed Action

1. Based on the violations identified in IV 1-3., above, the Division proposes to revoke Mr. Carson's designer's and installer's permits.

## VI. Hearing, Response, Proposed Settlement

Floyd J. Carson has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which Floyd J. Carson and any witnesses Floyd J. Carson may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If Floyd J. Carson wishes to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that Floyd J. Carson has the right to have an attorney present to represent Floyd J. Carson at Floyd J. Carson's expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) Floyd J. Carson has the right to request DES to provide a certified shorthand court reporter at Floyd J. Carson's expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

Floyd J. Carson may waive his right to a hearing. If Floyd J. Carson waives the hearing, the Division is prepared to revoke the designer's and installer's licenses. Floyd J. Carson should notify the Division of his decision by filling out and returning the enclosed colored form by October 22, 2001.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, at 271-3442.

  
Harry T. Stewart, P.E., Director  
DES Water Division

**Certified Mail #7099 3400 0003 0690 4347**

Enclosures

cc: Board of Selectmen, Town of Barnstead

Gretchen Rule, DES Enforcement Coordinator

W. E. Evans, P.E., Administrator, DES Subsurface Systems Bureau

Richard J. de Seve, Compliance Supervisor, DES Subsurface Systems Bureau